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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,789	03/21/2006	Gabor-Josef Agardy	344/1/112	9558
170	7590	10/03/2007	EXAMINER	
RICHARD M. GOLDBERG			NGUYEN, XUAN LAN T	
25 EAST SALEM STREET				
SUITE 419			ART UNIT	
HACKENSACK, NJ 07601			PAPER NUMBER	
			3683	
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			10/03/2007	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/572,789

Applicant(s)

AGARDY ET AL.

Examiner

Lan Nguyen

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed feature “a common drive mechanism for coupling the levers of the actuators of each pair of brake shoes” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant amended claim 1 to recite "a common drive mechanism for coupling the levers of the actuators of each pair of brake shoes". Applicant further argues that there should be two common drive mechanisms since there are two pairs of brake shoes. As shown in figures 1 and 2, for two (2) pairs of brake shoes 12A and 12B, there is only one (1) common drive mechanism (32) and only one (1) actuator 24 as shown in figure 2.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler (US 2768710) in view of Agardy et al. (DE 20203794). Please note that US 2005/0034937 A1 is being used in the rejection; since the US publication is an English equivalent of the DE document.

Re: claim 1, Butler shows an azimuth brake, as in the present invention, comprising: at least two pairs of brake shoes 33, 34, 35, 36 adapted to be arranged at a common brake disk 10; and each having an actuator associated therewith, each actuator including a lever 52 that is adapted to be pivotable about an axis extending parallel to the a plane of the brake disk, a transmission 30 for translating the pivotal movement of the lever into an axial engaging movement of the brake shoes against the brake disk, and a common drive mechanism 62 for coupling the levers of the actuators of said at least two pairs of brake shoes. Butler's levers 52 is pivotable about an axis parallel to the plane of the brake disk while claim 1 requires that levers to be pivotable about an axis normal to the plane of the brake disk. Agardy et al. teach an azimuth brake with a lever 24 pivotable about an axis normal to the plane of the brake disk 10 as another arrangement for an actuating mechanism for an azimuth brake. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Butler's brake to comprise the arrangement as taught by Agardy in order to take advantage of a motorized actuator which would be more convenient and powerful than a manual actuator of Butler. Note that since claim 1 does not positively claim the wind power plant, Butler's is capable of being used in a wind power plant.

Butler shows the common drive mechanism 62 to be coupled to two levers 52 in such a way that the two levers are acting together to evenly apply braking force.

Re: claim 2, Butler also shows that each pair of brake shoes has a saddle 14 with the transmission 30 being integrated therein.

Re: claim 3, Butler shows the saddles 14, 14 of the at least two pairs of brake shoes that are associated with the common drive mechanism actuator, are held on a common bracket 24.

Re: claim 5, as modified, Butler's brake would have two push rods 26 as shown in figure 1 of Agardy.

Re: claim 6, Agardy shows the motor 28 and the push rod 26 to be an electromechanical threaded spindle, see paragraph [0009], hence it is adjustable.

Re: claim 7, Agardy shows the levers 24 as claimed and the transmission 36 as claimed.

Re: claim 8, Butler shows the levers 52, 52 project inwardly relative to the brake disk 10. As modified, the levers 24 would be projecting radially inwardly relative to the brake disk 10 of Butler.

Re: claims 9 and 10, Agardy shows the threaded spindle and motor as claimed.

### ***Response to Arguments***

6. Applicant's arguments filed 8/19/07 have been fully considered but they are not persuasive.

- Applicant argues that the amended claim 1 further defines the claimed invention to be different from Butler's in that the claimed invention comprises "a common drive mechanism for coupling the levers of the actuators of each pair of brake shoes". Applicant further argues that there should be two common drive mechanisms since there are two pairs of brake shoes. As shown in figures 1 and 2, for two (2) pairs of brake shoes 12A and 12B, there is only one (1) common drive mechanism (32) and only one (1) actuator 24 as shown in figure 2. Please note also the drawing objection above.
- Applicant also argues that the claimed feature "counter bearing" means that the levers are rotating in opposite direction. It is unclear the meaning of "counter bearing for the drive mechanism for adjusting the other lever" since this claimed feature was not explained in the specification but only recited. If Applicant would like to claim the rotating in opposite direction, please amend the claim to specifically recite this feature.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3683

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Application/Control Number: 10/572,789  
Art Unit: 3683

Page 8

/Xuan Lan Nguyen/ 9-25-07  
Primary Examiner  
Art Unit 3683